

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 7

BMT DESIGNERS & PLANNERS, INC.,
fdbA BMT D&P, fdbA BMT fdbA BMT DAS US,

Case No. 22-10123 (MG)

Debtor.
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**STIPULATION AND ORDER BETWEEN THE TRUSTEE AND VIGOR
WORKS LLC EXTENDING THE TRUSTEE’S TIME TO ASSUME OR
REJECT THE CONTRACT WITH VIGOR AND ITS RELATED
SUBCONTRACTS THROUGH AND INCLUDING JULY 15, 2024**

This stipulation (“Stipulation”) is entered into by and between Salvatore LaMonica, solely in his capacity as the Chapter 7 Trustee (“Trustee”) of the bankruptcy estate (“Estate”) of BMT Designers & Planners, Inc., fdbA BMT D&P, fdbA BMT fdbA BMT DAS US (“Debtor”), and Vigor Works LLC (“Vigor”, along with the Trustee, are “Parties”) to extend the Trustee’s time to assume or reject the contract with Vigor and its related subcontracts through and including July 15, 2024 pursuant to 11 U.S.C. § 365(d) (“Bankruptcy Code”), and for related relief as set forth herein.

RECITALS

i. Procedural Background

A. On February 1, 2022 (“Petition Date”), the Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court, Southern District of New York (“Court”).

B. On or about the Petition Date, the Trustee was appointed as the interim Chapter 7 Trustee of the Estate, has since duly qualified and is the permanent Trustee administering this Estate.

C. The last day to file claims against the Estate was May 31, 2022 (“Bar Date”).

D. Pursuant to an Order entered on June 24, 2022 [ECF Dkt. # 96], the Trustee's time to assume or reject executory contracts was extended until August 3, 2022 under Bankruptcy Code section 365(d)(1). The Trustee did not seek a further extension of time to assume or reject executory contracts.

E. Pursuant to the so-ordered stipulation entered on July 20, 2022 [ECF Dkt. # 103], the Court approved the extension of time to assume or reject the Vigor Contract and Subcontracts through October 3, 2022.

F. Pursuant to the so-ordered stipulation entered on October 11, 2022 [ECF Dkt. # 137], the Court approved the extension of time to assume or reject the Vigor Contract and Subcontracts through December 2, 2022.

G. Pursuant to the so-ordered stipulation entered on November 23, 2022 [ECF Dkt. # 151], the Court approved the extension of time to assume or reject the Vigor Contract and Subcontracts through February 2, 2023.

H. Pursuant to the so-ordered stipulation entered on January 25, 2023 [ECF Dkt. # 168], the Court approved the extension of time to assume or reject the Vigor Contract and Subcontracts through March 2, 2023.

I. Pursuant to the so-ordered stipulation entered on February 27, 2023 [ECF Dkt. # 183], the Court approved the extension of time to assume or reject the Vigor Contract and Subcontracts through April 17, 2023.

J. Pursuant to the so-ordered stipulation entered on April 14, 2023 [ECF Dkt. # 190], the Court approved the extension of time to assume or reject the Vigor Contract and Subcontracts through June 30, 2023.

K. Pursuant to the Amended Order Referring Dispute to Mediation entered on June 21, 2023 [ECF Dkt. # 209], the Court approved the extension of time to assume or reject the Vigor Contract and Subcontracts through September 30, 2023.

L. Pursuant to the so-ordered stipulation entered on September 28, 2023 [ECF Dkt. # 225], the Court approved the extension of time to assume or reject the Vigor Contract and Subcontracts through November 1, 2023.

M. Pursuant to the so-ordered stipulation entered on October 31, 2023 [ECF Dkt. # 233], the Court approved the extension of time to assume or reject the Vigor Contract and Subcontracts through January 15, 2024.

N. Pursuant to the so-ordered stipulation entered on January 12, 2024 [ECF Dkt. # 245], the Court approved the extension of time to assume or reject the Vigor Contract and Subcontracts through April 15, 2024.

ii. The Vigor Contract and Related Subcontracts

O. Prior to the Petition Date, on or about September 28, 2017, the Debtor and Vigor entered a license agreement, as amended and including addendums (“License Agreement”) whereby, the Parties worked together to offer their combined vessel design and vessel construction expertise to the United States Army in connection with its replacement of its fleet of Landing Craft Mechanized 8 Mod I and II vessels with a new vessel known as the Maneuver Support Vessel (Light) (“MSV(L)”).

P. On September 28, 2017, the United States Army awarded Contract W56HZV-1 7-D-0086 (“Prime Contract”) to Vigor for the design and delivery of the MSV(L).

Q. Contemporaneously with the execution and delivery of License Agreement, the Parties, among other things, entered into a Master Subcontract Agreement (MSV(L))

(as it was amended in accordance with its terms, the (“MSVL Subcontract”, along with the License Agreement are collectively “Vigor Contract”) that describes the terms and conditions under which the Debtor supported Vigor in connection with the Prime Contract, including, creating and modifying the drawings and designs of the MSV(L).

R. In addition, the Debtor entered into multiple subcontracts with various third parties to perform services on behalf of the Debtor under, and related to, the Vigor Contract and Prime Contract, of which there were approximately eleven (11) active subcontracts as of the Petition Date (“Subcontracts”).

S. The Parties have again agreed to extend the Trustee’s time to assume or reject the Vigor Contract and its related Subcontracts through and including July 15, 2024 as set forth herein.

TERMS AND CONDITIONS

1. The recitals above are incorporated by reference as if set forth at length herein and the Parties agree to the accuracy thereof.

2. The Trustee’s time to assume or reject the Vigor Contract and any and all related Subcontracts through and including July 15, 2024, without prejudice for the Parties to agree to further extend the Trustee time.

3. The Trustee also reserves the right to seek a further extension from the Court pursuant to Bankruptcy Code section 365(d)(1).

4. Nothing herein shall constitute a waiver of any all claims and/or defenses by either Party relating to or deriving from the Vigor Contract, the Subcontracts and/or the Prime Contract.

5. If the Court does not approve this Stipulation, then the Stipulation shall be deemed null and void and of no force and effect, and the Parties to this Stipulation shall retain all rights, claims and/or defenses that they may have against each other.

6. This Court shall retain exclusive jurisdiction over the subject matter of this Stipulation to resolve any dispute in connection with the rights and duties specified hereunder.

7. This Stipulation may be executed in any number of counterparts, any and all of which shall be deemed to be original. The Parties shall be bound by their signatures transmitted by facsimile or electronic mail (in pdf format) as if such signatures were original “ink” signatures.

Dated: March 28, 2024
Wantagh, New York

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Dated: March 28, 2024
Seattle, Washington

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IT IS SO ORDERED.

Dated: New York, New York
March 29, 2024

/s/ Martin Glenn
MARTIN GLENN
Chief United States Bankruptcy Judge